

# **UNITED STATES DISTRICT COURT EASTERN DISTRICT OF WISCONSIN**

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THERESA M. GARNER,

Plaintiff,

Case No. 05-C-907

v.

STATE OF WISCONSIN,  
UNIVERSITY OF WISCONSIN-MILWAUKEE,  
UW-MILWAUKEE POLICE DEPARTMENT,  
THERESA FRANZ, SANDRA HUMES-BENTON,  
and BETH WELKMUELLER,

Defendants.

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## **OPINION AND ORDER**

This case was recently transferred to this court by Judge J.P. Stadtmueller. The Plaintiff, Theresa Garner, has asked to be allowed to proceed in forma pauperis on her claims against the following Defendants: State of Wisconsin, University of Wisconsin-Milwaukee, UW-Milwaukee Police Department, Theresa Franz, Sandra Humes-Benton and Beth Welkmueller. See 28 U.S.C. § 1915.

Having reviewed the Complaint, the court concludes that the claims set forth are so insubstantial that the court cannot conclude that it has subject matter jurisdiction. The Plaintiff alleges that the Defendants interfered with discovery and a "FOIA" request that she made. She has not styled this action as a FOIA action, but has submitted a right-to-sue letter from the Equal Employment Opportunity Commission. Because it is unclear what theory of liability the Plaintiff is pursuing, it would not be possible for the Defendants to answer. For these reasons, the court concludes that the

Plaintiff has not stated a claim upon which relief can be granted and ORDERS that this action is dismissed. See Federal Rule of Civil Procedure 12(b )(6) and 28 U.S.C. § 1915(A).

IT IS FURTHER ORDERED that Theresa Garner's request to proceed in forma pauperis (filed August 22, 2005) IS DENIED.

IT IS FURTHER ORDERED that the Clerk of Court shall enter a judgment of dismissal as a separate document. See Federal Rule of Civil Procedure 58. This judgment shall provide that:

Plaintiff Theresa Garner brought this action against Defendants State of Wisconsin, University of Wisconsin-Milwaukee, UW-Milwaukee Police Department, Theresa Franz, Sandra Humes-Benton and Beth Welkmueller before the court, the Honorable Thomas J. Curran, District Judge, presiding, and the court having concluded that the Plaintiff has failed to state a claim upon which relief can be granted,

IT IS ORDERED AND ADJUDGED

that this action is dismissed without prejudice.

Done and Ordered in Chambers at the United States Courthouse, Milwaukee, Wisconsin, this 12th day of September, 2005.

s/ Thomas J. Curran  
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Thomas J. Curran  
United States District Judge